

WARREN ZONING BOARD OF REVIEW
May 18, 2016
Minutes

The regular meeting of the Warren Building Code Board of Review was called to order at 7:00 pm by Chairman S. Calenda. Also present was P. Atteman, W. Barrett Holby, A. Harrington, A. Ellis, 1st Alternate M. Emmencker and 2nd Alternate J. Rainone.

Approval of Minutes – The minutes of April 27, 2016 were reviewed by the Board via email. A motion was made by A. Ellis to accept the April 27, 2016 minutes as circulated. Second by W. Barrett Holby. Yea - Chairman S. Calenda, Vice Chairman P. Atteman, A. Harrington, W. Barrett Holby, Jr. and A. Ellis. 5-0.

New Business

Chairman Calenda requested that the first agenda item of discussion be heard out of order due to a scheduling conflict with the attorneys. For the following agenda item, Mr. Steven Minicucci served as Solicitor.

Application#16-7; JenMarc Realty, LLC, owner and David Caetano, applicant; 508 Main St.; plat map 4, lot 107; request for a *Special Use Permit* under section 32-51 of the Warren Zoning Ordinance to allow a movie theater in a village business zoning district.

David Caetano, owner and applicant, was present to give testimony. He briefly described the history of his business venture and his ideas for the addition of a “movie lounge” to show \$3.00 vintage films. Chairman Calenda asked what Mr. Caetano had done thus far to satisfy the required fire and building codes. Mr. Caetano stated that the back door was required to open out and need a panic bar; he installed a door meeting these requirements. Mr. Caetano stated that the front door was widened by two inches to 33 inches. He installed caution tape and lighting in the aisles and is installing a handicap ramp and fire alarm system. All hanging fabric has been removed. An IFR curtain is being installed to hide the screen. Mr. Ellis asked what was requested regarding a handicap accessible bathroom. Mr. Eames said there were limitations due to the age of the building; Mr. Caetano said railings were added to the bathroom.

Mr. Ellis asked if this was considered a change of use for the building. Mr. Eames answered in the positive, explaining that a theatre with less than 50 occupants is under business requirements, not assembly group requirements. The proposed theatre is for 23 occupants which is allowable for the space. Mr. Ellis asked if the retail was considered mercantile or business; Mr. Eames said mercantile.

Chairman Calenda introduced the finding of fact for the four standards for a Special Use Permit. First, he asked if this was compatible to the surrounding neighborhood. Mr. Caetano answered in the positive, stating the movie theatre would provide entertainment and complement the vintage charm of the historic district. Second, Mr. Calenda asked if the theatre would create a public nuisance or hazard, including any issues with pedestrian traffic. Mr. Caetano responded no, saying that he’d be showing the films at 8 PM when most businesses were closed, there would be adequate parking, and noted that the theatre only has space for 23 occupants. Third, Mr. Calenda asked if this was compatible with the Comprehensive Plan. Mr. Caetano answered yes because the theatre would add to the eclectic charm of the community. Fourth, Chairman Calenda asked if the public welfare would be served and asked if there would be any movies shown that would disturb the public in any way. Mr. Caetano stated the films to be shown are vintage films with at most an “R” rating equivalent; there would be no “adult only” films shown.

As this time, Mr. Caetano passed a tablet (iPad) to the board to show examples of the improvements to the seating. Mr. Minicucci said the tablet was for informational use only; and pictures used for evidence had to be

presented in hard copy. Chairman Calenda stated that for the record the tablet was informational only; no hard copies of photographs were presented at this time.

Mr. Ellis revisited the hazard statue and asked about fabric, smoke and potential flame spread. Mr. Caetano restated that there was no hanging fabric, he used only latex paint, and the projector will have a three second cool down feature. Mr. Eames said Chief Gallinelli has inspected the space and a fire alarm will be installed. Due to the size of the building, sprinklers are not required.

Mr. Harrington inquired about onsite parking. Mr. Caetano said there was public parking as well as municipal parking available. Mr. Emmenecker asked about the rear entrance; Mr. Caetano said the front door would be designated as the entrance, the back door will be exit only. Mr. Ellis asked about reconfiguring seating for handicap use; Mr. Eames noted that space adequate space was calculated for wheelchair use and a companion in the front row.

Public Comment

Chris Zingg, owner of In Your Ear Records, offered his support for Mr. Caetano. He stated Mr. Caetano promotes the town in a positive manner, and, assuming all the safety requirements are met, that the theater would be a positive addition to the town.

Keri Cronin, owner of Dish and co-chair of Discover Warren, stated that Mr. Caetano has contributed time, energy and grass roots marketing for the town. She stated she was supportive of his new business venture as long as all the safety requirements were met.

Mr. Ellis asked if Chief Gallinelli could make a statement; Mr. Minicucci said this was permitted.

Chief Gallinelli stated that the building owner is working with Mr. Caetano to install the fire alarm system. Chief Gallinelli has not seen the plans yet, although they are in the works. Once the system is installed and the safety requirements are satisfied, Chief Gallinelli stated he had no objection to what Mr. Caetano is trying to do with the space. Mr. Emmenecker asked what the procedure he follows; Chief Gallinelli said he follows a fire code book. This space is for less than 50 occupants so the space does not require sprinklers. He said he will be getting the drawing of the fire alarm system which he will review and stamp, at that point the building official can issue the permit for the installation. He said both doorways originally opened in. The front doorway was allowed to remain that way due to the age of the building, but the back doorway now opens out. Mr. Ellis asked if the back landing was wide enough and had hand rails; Chief Gallinelli said they adequately improved the back landing and that the landing leads to a safe place to vacate the building in an emergency.

There was no further public comment. Chairman Calenda asked if Mr. Caetano had further testimony. Mr. Caetano stated that he was a positive person and he believed the proposed theatre would be a positive addition to the community. There were no further questions from the board.

Mr. Ellis made a motion to approve **Application #16-7; JenMarc Realty, LLC, owner and David Caetano, applicant; 508 Main St.; plat map 4, lot 107; request for a *Special Use Permit* under section 32-51** of the Warren Zoning Ordinance to allow a movie theater in a village business zoning district. In granting this approval for a Special Use Permit with the following finding of fact based on testimony from the applicant and the community, this use will be compatible with surrounding neighborhood; based on testimony from the Fire Chief and the Building Inspector, this use will not create a hazard or a public nuisance; this use complies with the Comprehensive Plan as a unique business for the town, and will attract additional patrons and increase walkability; and finally, the public convenience and welfare will be served as this use will enhance entertainment opportunities for the town. The conditions on this motion are that the applicant continue to work with the

Building Inspector and the Fire Chief to ensure that all codes and regulations are met to their satisfaction. Second by A. Harrington. Yea - Chairman S. Calenda, Vice Chairman P. Atteman, W. Barrett Holby, A. Harrington and A. Ellis. 5-0.

Mr. Minicucci left the meeting at this time (7:40 pm)

Old Business

Application #15-28; Dana Wright, owner and John Sheridan, applicant; 3 Touisset Rd; plat map 16, lot 301; request for a 6 month extension to the *Variance* approved on 6/17/15 and recorded 7/9/15.

Chairman Calenda stated that this item has been granted an extension; therefore, at this time there is no need to have a hearing on application #15-28.

Application #16-4; 450 Main Street LLC, owner and applicant, 442 Main St / 31 Child St; plat map 4, lots 64, 64A 65 & 66; request for a *Special Use Permit* under section 32-55 of the Warren Zoning Ordinance to allow indoor storage of non-flammable and non-explosive materials in a VB zoning district.

Mr. Sequino, owner and applicant respectfully requested permission to withdraw Application #16-4.

It was moved by A. Harrington to grant permission for the withdrawal of **Application #16-4; 450 Main Street LLC, owner and applicant, 442 Main St / 31 Child St; plat map 4, lots 64, 64A 65 & 66; request for a *Special Use Permit* under section 32-55 of the Warren Zoning Ordinance to allow indoor storage of non-flammable and non-explosive materials in a VB zoning district.** Second by W. Barrett Holby. Yea - Chairman S. Calenda, Vice Chairman P. Atteman, A. Harrington, W. Barrett Holby, Jr. and A. Ellis. 5-0.

New Business

Application #16-6; Agnes Hozempa, owner and applicant; 527 Metacom Ave; plat map 13A, lot 70; request for a *Variance* under section 32-77 of the Warren Zoning Ordinance to construct a front porch closer to the front lot line than allowed in an R10 zoning district.

Agnes Hozempa, owner and applicant, gave testimony that she wants to replace her deteriorating front steps. Her contractor, Kenneth Laprie, stated he wants to build a platform on the front, which is required by code, with stairs coming down from the platform. When finished the stairs will come three feet closer to the front boundary leaving less footage than allowed; the owner is requesting a variance based on this hardship. Mr. LaPrie stated that the Building Inspector suggested he build the steps to the side, but the stairs need to go forward towards the sidewalk because the house has bay windows. Chairman Calenda asked the Board if there were any questions. Mr. Emmenecker asked about the piers for the proposed platform; Mr. Laprie replied that it would be built on the existing concrete or new piers; there will also be a handrail on the platform. Depending on the need for two or three steps, the finished stairs will be set back approximately six feet from the sidewalk. Mr. Rainone asked if the stairs will protrude beyond the existing shrubbery; Mr. LaPrie replied that they will protrude minimally or not at all.

Public Comment - None

Chairman Calenda asked if Ms. Hozempa had any further comment. She stated the existing stairs are an eyesore and have been in place for the 31 years she has resided at the property. There were no further questions for the applicant.

It was moved by P. Atteman to approve Application #16-6; Agnes Hozempa, owner and applicant; 527 Metacom Avenue; plat map 13A, lot 70; request for a Variance under section 32-77 of the Warren Zoning Ordinance to construct a front porch closer to the front lot line than allowed in an R10 zoning district. The granting of the request will allow for a small platform of two to three feet in compliance with the building code with two to three stairs which will replace the original deteriorating stairs. This request is the least amount of relief necessary for the stairs to meet the building code. Second by W. Barrett Holby. Yea - Chairman S. Calenda, Vice Chairman P. Atteman, A. Harrington, W. Barrett Holby, Jr. and A. Ellis. 5-0.

Application #16-8; Barry Lial, owner and applicant; 19 Serpentine Rd; plat map 21, lot 297; request for a Variance under section 32-77 of the Warren Zoning Ordinance to allow construction of an accessory structure with a height greater than allowed in an R40 zoning district.

Mr. Barry Lial, owner and applicant, was present to give testimony. He explained that the design for his accessory building has a height of 26 ½ feet to the ridge pole which he did not realize was non-conforming. He felt the structure would have more character with a steeper roof pitch resulting in an overall height of 26 ½ feet and the height would add to the overall versatility of the structure, allowing him to use the attic space for storage. The height allowed is 20 ½ feet; Mr. Lial is requesting relief of 6 ½ feet due to the pitch of the roof. Mr. Ellis asked if it was possible to keep the 9'10' height on the bottom floor and lower the pitch of the roof to reduce the attic height, and would it be detrimental to the use of the upper area. Mr. Lial replied he prefers the steeper roof pitch because it is more practical for his needs.

Chairman Calenda asked if the existing 22" by 18" accessory structure is staying on the property. Mr. Lial answered he was keeping that building as well. Mr. Harrington asked the applicant about the use of the proposed structure. Mr. Lial replied he has been collecting items from his family farm, including tractors, and he will use the building for storage. He has a two acre lot and the building might eventually have an agricultural use.

Mr. Ellis asked the applicant what would be the minimum amount of space needed for the second floor. Mr. Lial said he didn't have an answer for that. Vice Chairman Atteman asked about the size of the building footprint. If the applicant is committed to the roof pitch for the attic height, altering the width of the building would be a way to maintain the aesthetic while working with the overall height requirements. Mr. Atteman stated that the applicant's request was not based on a hardship. Mr. Lial explained that there are existing accessory structures in the area that are taller than existing houses; he feels the proposed structure complies with the agricultural feel of the surrounding area. Also, the height of the structure will not block the neighbor's view.

Mr. Ellis asked the applicant to prioritize if it was more important to have a steeper roof pitch and possibly make the building narrower, or is it more important to keep the footprint of the building and have less headroom on the second floor. Mr. Lial said the latter was more important. Mr. Harrington commented that there are barns in the area that are bigger than the houses. Mr. Ellis asked Mr. Lial to give the board a specific need or activity for the height on the second floor. Mr. Lial said the design was based on the overall versatility of the space, not a specific function. Mr. Holby said this was farm in Warren for many years and the proposed structure fits the area. Chairman Calenda proposed to reduce the height as a compromise to satisfy the least amount of relief possible.

Public Comment – None

Mr. Lial had no further testimony. Chairman Calenda asked the board for additional comments. Vice Chairman Atteman was not convinced that the design of the structure was specific to any particular need and the ceiling heights were arbitrary; a two foot reduction in the ceiling height in the attic would still give the structure an

adequate roof pitch. Mr. Holby commented that despite the restrictions the proposed structure fit the character of the area. Mr. Harrington commented that the applicant's current use is not specific, but the proposed structure is in an agricultural area and the decision should reflect maximum flexibility for future use. Mr. Ellis said that a variance for the full height would satisfy the standard by conforming to the character of the area. Also, it would provide the least amount of relief necessary because if the roof was lower, it could potentially limit the future uses for the building. It is not the result of financial gain and the hardship is due to the rural, farming nature of the area. Mr. Rainone agreed that the proposed structure fit the character of the area, but he felt that there might be a question about no other reasonable alternative for the property; however, Mr. Skwartz stated that the language about a reasonable alternative should be stricken from the ordinance and should be disregarded.

Chairperson Calenda said that reducing the height two feet on the second story from 10 ft. to 8 ft. would provide the least amount of relief granted and still allow the applicant adequate use of the building. Vice Chairman Atteman said that in the past when the applicant is unclear about future uses of the building, the board cannot not presume future uses; the Board should consider the application and current testimony of the applicant. The Board agreed that a reasonable solution would be a compromise on the height of 25 feet.

It was moved by A. Ellis to approve Application #16-8; Barry Lial, owner and applicant; 19 Serpentine Rd; plat map 21, lot 297; request for a Variance under section 32-77 of the Warren Zoning Ordinance to allow construction of an accessory structure with a height greater than allowed in an R40 zoning district. In granting this variance we find that the hardship is due to the unique character of the area as a farming area with similar structures, the hardship is not due to any prior action and financial gain, the structure will not alter the surrounding area and conforms to the Comprehensive Plan. We find that the relief granted by reducing the maximum height from 26 ½ ft. to 25 ft. is the least amount of relief necessary to satisfy the applicant's intentions and by not granting this it would hinder the applicant's use of the property. Seconded by A. Harrington. Yea - Chairman S. Calenda, Vice Chairman P. Atteman, A. Harrington, W. Barrett Holby, Jr. and A. Ellis. 5-0.

Adjourn

It was moved by M. Emmenecker to adjourn the meeting at 8:30 pm. Second by P. Atteman. Yea - Chairman S. Calenda, Vice Chairman P. Attemann, A. Harrington, A. Ellis, M. Emmencker and M. Rainone.

Respectfully submitted,

Kristin M. MacDonald